

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ROBERT M. BRY,

Plaintiff,

v.

CITY OF FRONTENAC, et al.,

Defendants.

No. 4:14-CV-1501 RLW

MEMORANDUM AND ORDER

This matter is before the Court on Defendants' Motion to Strike Plaintiff's Supplemental Rule 26(A)(1) Disclosures Regarding Witnesses ("Motion"; ECF Nos. 72, 73). This matter is fully briefed and ready for disposition.

In their Motion, Defendants argue that Plaintiff's supplementing his Rule 26(A)(1) disclosure on September 30, 2015 to include 30 additional witnesses is prejudicial because the witnesses were not timely disclosed. Defendants note that discovery is scheduled to close in this case on September 15, 2015. Defendants also claim that Plaintiff has long been aware of the existence of the recently disclosed witnesses, particularly since some of the witnesses relate to events that took place five or ten years ago. Finally, Defendants maintain that no spoliation of evidence occurred that would warrant this additional discovery. (ECF No. 94, ¶2).

In response, Plaintiff claims that any prejudice to Defendants is cured by the forty-five (45) day extension for discovery that Plaintiff has requested from the Court. (ECF No. 86). Plaintiff also claims that the failure of Defendants to preserve evidence has forced him to disclose additional witnesses. Further, Plaintiff maintains that Defendants have been aware of these witnesses, particularly Sheila Hoffman.

The Court will not strike Plaintiff's supplemental disclosures. The Court has entered an amended Case Management Order, which extends the deadline for discovery by 30 days. The Court believes that this extension will afford Defendants sufficient time to engage in discovery relevant to the newly disclosed witnesses.

Accordingly,

IT IS HEREBY ORDERED that Defendants' Motion to Strike Plaintiff's Supplemental Rule 26(A)(1) Disclosures Regarding Witnesses (ECF Nos. 72, 73) is **DENIED**.¹

Dated this 21st day of September, 2015.



RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE

¹ ECF No. 73 was a duplicate of ECF No. 72, but included Exhibit A that was inadvertently omitted from ECF No. 72.